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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,162	06/20/2003	Jeff Moler	VTE-137-B	7528

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Thomas D. Helmholdt  
Young & Basile, P.C.  
Suite 624  
3001 West Big Beaver Road  
Troy, MI 48084

EXAMINER

ADDISON, KAREN B

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/601,162

Applicant(s)

MOLER, JEFF

Examiner

Karen B Addison

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-22 is/are rejected.
- 7) ☐ Claim(s) 10 and 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9, 11-16, and 18-22 rejected under 35 U.S.C. 102(b) as being anticipated by Ota (JP 6-105568).

Ota discloses in fig. 2,3,6,7 a uni-body actuator comprising: a support structure(4) having a first and a second arm portions(45,53) formed on an outer end of each arm portion for movement therewith; and a primary actuator (a)operable associated with the support structure for driving the arm portions relative to one another in response to an electrical activation of the primary actuator, and a secondary actuator(c) operable associate with each secondary portion for driving each secondary portion between an opened position and a closed position in response to an electrical activation of the secondary actuator , each of the actuators being operable independently of one another. Ota also discloses, a rigid non-flexing web portion (beneath 24 and 42) associated with the support structure and a force transfer member(44) for transmitting a force from the primary actuator to move the associated secondary portion between an extended position and a retracted position with respect to one another, the secondary portions moving toward one another to the retracted position wherein, the primary actuator is de-energized and the secondary portions moving away from one another to

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the extended position when the primary actuator is energized. Wherein, the rigid non-flexing web portion associated with outward extending side portion at opposite ends of the web portion defining a rigid non-flexing C-shape portion of the support structure; and a pair of hinge portions (42) extending generally parallel to one another between the force transfer member portion and each arm portion of the support structure, and between the force transfer member portion and each side portion of the support structure. Ota also disclose a secondary web portion (beneath 44) integrally associated with the corresponding arm portion of the support structure; and the first and second secondary arm portions integrally associated with and extending from opposite ends of each secondary web portion. Wherein, a force transfer member portion for transmitting a force from the secondary actuator to move the associated secondary arm portion between an opened position and a closed position with respect to one another, the secondary arm portions moving toward one another to the closed position when the secondary actuator is de-energized and the secondary arm portion moving away from one another to the open position when the secondary actuator is energized. Ota also discloses each of the secondary portions having a clamp (47,55) having shape recesses(54) engageable with a movable member having a complementary shape. Wherein, the primary and secondary actuators can be triggered in different sequential series for bi-directional operation to move the member in either direction with respect to the structure. Ota also show a first and a second pair of substantially parallel hinges for the first and second clamps to pivot about respectively formed by at least one reduced area created by slots located in the support structure between each clamp and each

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side of the structure, and between the force transfer member and the clamps. Wherein, the force focusing member operable associated with one of the primary and secondary actuators; and a screw (m) threadably engagable with a rigid end web of the support structure, the screw operably associated with the force focusing member such that a preload force can be applied to the actuator through the screw and the force focusing member prior to energizing the actuator. The method is inherent based on the structural limitations of the claims.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ota. Ota substantially disclose the claim invention however, Ota does not disclose the support structure made of homogenous material.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to select a homogenous material for the support structure, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *IN re Leshin*, 125 USPQ416.

***Allowable Subject Matter***

5. Claims 10 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior art fails to show the secondary portions defining a first valve portion and a second valve portion; an a pump means for pumping a fluid, the pump means positioned between the first and second arm portions of the support structure and in fluid communication with the first valve portion and the second valve portion.

***Conclusion***

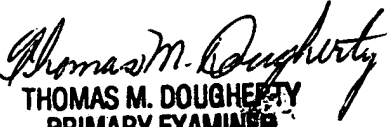
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen B Addison whose telephone number is 571-272-2017. The examiner can normally be reached on 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on 703-308-1317. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KBA  
6/6/04

  
THOMAS M. DOUGHERTY  
PRIMARY EXAMINER  
GROUP 2100